

**In The Court Of Appeal Of The State Of California
Sixth Appellate District
San Jose, California**

MONDAY, DECEMBER 28, 2009

H034078 HARRIS v. CITY OF SAN JOSE, et al.

The judgments of dismissal after the order of February 5, 2009, sustaining without leave to amend the demurrers of respondents City of San Jose and Wells Fargo Bank, NA to the third amended complaint are affirmed. Costs on appeal are awarded to respondents. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: McAdams, J., Duffy, J.)

Filed December 28, 2009

H033337 PEOPLE v. TORRES

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: McAdams, J., Duffy, J.)

Filed December 28, 2009

H033623 PEOPLE v. HAMMOND

The judgment is ordered modified to state that the amount of the restitution fine (§ 1202.4, subd. (b)) is \$1,000 and the amount of the suspended parole revocation restitution fine (§ 1202.45) is \$1,000. As so modified, the judgment is affirmed. The clerk of the superior court is directed to prepare an amended abstract of judgment, setting forth these charges in the judgment, and to forward a certified copy of the amended abstract of judgment to the Department of Corrections. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed December 28, 2009

TUESDAY, DECEMBER 29, 2009

H033784 PEOPLE v. ZARATE

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed December 29, 2009

H033432 PEOPLE v. MASCHINO

By the Court*:

Appellant's petition for rehearing is denied.
Filed: December 29, 2009

*Before Rushing, P.J., Premo, J. and Elia, J.

**In The Court Of Appeal Of The State Of California
Sixth Appellate District
San Jose, California**

Tuesday, December 29, 2009 (continued)

H033601 PEOPLE v. PALMENO

The judgment is reversed, and the matter is remanded to the trial court with directions to (1) permit the prosecution the opportunity to offer evidence to support an AIDS testing order and (2) prepare an amended abstract of judgment which (a) reflects that the Penal Code section 290.3 fine is \$200, (b) specifies the applicable penalty assessments on that fine, and (c) specifies that the second life term is to be served concurrently rather than consecutively. The trial court shall forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation. (not published) (Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed December 29, 2009

H034441 JASMINE NETWORKS, INC. v. SUPERIOR COURT

Let a peremptory writ of mandate issue directing the trial court to set aside its order dismissing plaintiff's claims, and to proceed with their adjudication in a manner consistent with this opinion. Costs to petitioner. (published) (Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed December 29, 2009

H015871 PEOPLE v. GRUNAU

The judgment is affirmed. (not published) (Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed December 29, 2009

H034102 PEOPLE v. CURTIS

The judgment is reversed for resentencing with directions to reduce count 1 to a misdemeanor and to determine, in an exercise of the court's discretion, whether to reduce count 3 to a misdemeanor. (not published) (Rushing, P.J.; We concur: Elia, J., Duffy, J.)

Filed December 29, 2009

H033481 PEOPLE v. GUTKOWSKI

(Filed modification of opinion with no change in the judgment.) Appellant's petition for rehearing is denied. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed December 29, 2009

**In The Court Of Appeal Of The State Of California
Sixth Appellate District
San Jose, California**

WEDNESDAY, DECEMBER 30, 2009

H033934 PEOPLE v. MURPHY

The probation condition that defendant "shall not possess or consume alcohol or illegal drugs, or knowingly be anywhere illegal drugs are used or sold or alcohol is the major item of sale" is modified by striking the references to alcohol, so that the condition states that defendant "shall not possess or consume illegal drugs, or knowingly be anywhere illegal drugs are used or sold." As modified, the order of probation is affirmed. (not published)

(Mihara, J.; We concur: Elia, Acting P.J., McAdams, J.)

Filed December 30, 2009